

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE: INSURANCE BROKERAGE
ANTITRUST LITIGATION

: Hon. Faith S. Hochberg

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: MDL No. 1663

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APPLIES TO ALL ACTIONS

: Date: October 3, 2006

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: **Civil Action No. 04-5184 (FSH)**

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IN RE: EMPLOYEE-BENEFIT INSURANCE
BROKERAGE ANTITRUST LITIGATION

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: **Civil Action No. 05-1079 (FSH)**

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APPLIES TO ALL ACTIONS

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HOCHBERG, District Judge:

This matter having come before the Court upon Defendants' Motion to Dismiss the First Consolidated Commercial Class Action Amended Complaint and the First Consolidated Employee Benefits Class Action Amended Complaint (the "Complaints") pursuant to Fed. R. Civ. P. 12(b)(6); and the Court having reviewed the written submissions of the parties and held oral argument on July 26, 2006; and for the reasons expressed in this Court's Opinion; and for good cause shown;

IT IS on this 3rd day of October 2006,

ORDERED that Defendants' Motion to Dismiss the Consolidated Amended Complaints is **DENIED** in part; and it is further

ORDERED that Defendants' Motion to Strike Immaterial and Impertinent Matter from the Employee-Benefits Complaint [Docket Entry No. 101, Civ. Action No. 05-1079] is

DENIED; and it is further

ORDERED that Plaintiffs shall file an Amended RICO Case Statement consistent with the terms of this Court's Opinion by October 25, 2006; based on the sufficiency of the Amended RICO Case Statement, the Court will issue a final ruling on the Motion to Dismiss with regard for Counts I, II and III of the Complaints; and it is further

ORDERED that Plaintiffs shall file a supplemental statement of particularity consistent with the terms of this Court's Opinion by October 25, 2006; the Court will hold a case management conference on November 6, 2006 at 1pm, to be attended only by members of the Steering Committees, where the Defendants shall inform the Court whether they will seek to (1) move to dismiss the remaining counts of the Complaints pursuant to Fed. R. Civ. 12(b)(6); (2) move for a judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c); or (3) move for summary judgment pursuant to Fed. R. Civ. P. 56; and it is further

ORDERED that the parties shall engage in limited discovery on the issue of the Insurer Defendants' ERISA fiduciary status. Such discovery shall be concluded on or before December 30, 2006, and all disputes related to such discovery shall be brought to the attention of Magistrate Judge Patty Schwartz no later than October 25, 2006.

/s/ Faith S. Hochberg
Hon. Faith S. Hochberg, U.S.D.J.